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Basildon Council

BASILDON • BILLERICAY • WICKFORD

Mrs C Quilligan
5 Swallow Court
Dale Fame
Oak Lane
Billericay
Essex
CM11 2YH

Date 15th September 2010
Please ask for Ms M Badger
Department **HOUSING SERVICES**
Tel. No 01268294042
Ref HPIG 3749

CC Solicitors Davies Gore Lomax
Advocates Mr Malcolm Tully
Mr Gratton Puxon
Mrs Ann Kobayashi

Dear Mrs Quilligan,

HOUSING ACT 1996 – PART VII (AS AMENDED 2002) SECTION 184 NOTIFICATION OF A DECISION.

Following your homeless application on the 4th February 2010, I have now completed my enquiries under the above Act.

I am satisfied that you are homeless. However you are not eligible for assistance or have a priority need for accommodation under Section 189 of the above Act. My reason for this decision is as follows:-

Please see enclosed report.

This means that I am unable to provide you with any temporary accommodation at this time.

If you would like general advice or information on housing within the district, please contact the Housing Assessment Service on 01268 294342 or call into the Basildon centre and speak to an Assessment Officer.

You have the right to a review of this decision if you believe it is wrong. If you would like a review, please write to the Reviews and Performance Officer at the above address within 21 days of receiving this decision letter. The review will be undertaken by a panel of at least 2 Senior Housing Officers, who have not been involved in the original decision.

Following the review, if you do not agree with the decision of the Review Panel, you can appeal to the County Court on a point of law. If you wish to do this, you must appeal in writing within 21 days of receiving the review decision letter.

Basildon District Council
The Basildon Centre, St. Martin's Square
Basildon, Essex SS14 1DL
Tel: 01268 533333
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www.basildondistrict.com



HO267(B)

PRELIMINARY CASE REPORT **IN RESPECT OF**

Cathleen Quilligan

FAMILY UNIT:

Cathleen Quilligan DOB 28/05/1951 Applicant
Philomena Quilligan DOB 30/08/1976 Daughter
Philomena's Child born March 2010.

REASON FOR HOMELESSNESS: The applicant has accommodation, which consists of a mobile structure, but Mrs Quilligan has nowhere she is legally permitted or entitled to place it and reside in it.

BACKGROUND TO CASE:

Mrs Cathleen Quilligan made a homeless application to Basildon District Council on the 4th February 2010 having been served with an eviction notice to vacate the unauthorised Travellers site at 5 Dale Farm, Crays Hill, CM11 2YH.

I considered the following paragraphs in the Code of Guidance 2006 to determine whether this Authority owes a duty towards Mrs Cathleen Quilligan.

8:14 The burden of making inquiries rests on the Local Housing Authority. It is for the Local Housing Authority to make the inquiries necessary to 'satisfy' itself whether the applicant is 'eligible' and then, if satisfied that she or he is eligible, to make the inquiries necessary to satisfy itself whether any duty is owed under HA 1996, Part VII.

8:24 The LHA is not required to accept what the applicant says at face value. However, if the applicant's response raises a relevant matter of fact, the Local Housing Authority is not prepared simply to accept, the Local Housing Authority must investigate it.

10.4 But nowadays the modern statutory regime contains sophisticated exclusions provisions. The general rule, that homeless assistance is available to all, is preserved. However the HA 1996, at S185 & S186, provides for the exclusion of specific categories of applicants. As a result eligibility is defined in the negative. A person is not excluded from homeless assistance unless caught by the provisions of either Housing Act 1996.

Findings

Not everyone qualifies for help from a Local Housing Authority under the homelessness provisions. There is an 'eligibility' test and, because of that, one of the first inquiries that a Local Housing Authority must make of an applicant for assistance is whether he or she is eligible to obtain any help at all. (Housing Act 1996, s.184(1)(a)).

Homelessness

Mrs Cathleen Quilligan has been served with a notice of eviction as planning permission was refused for plot 5 Dale Farm. Given this information I am satisfied that this Authority had at time of application 'reason to believe' that Mrs Quilligan may be homeless or threatened with homelessness, that this Authority shall make such inquiries to satisfy ourselves whether

1. Mrs Quilligan is eligible for assistance and
2. If so, whether any duty, and if so what duty, is owed to her.

Eligibility

In accordance with Section 185, certain person from abroad are not eligible for housing assistance these include a person subject to immigration control and a person from abroad other than a person subject to immigration control.

In order to satisfy ourselves that an applicant is not a person from abroad who is eligible or ineligible for housing assistance it is normal practise for this Authority to request either a copy of the birth certificates, full if they are born after 1983, or a copy of their passport or immigration documents.

The refusal to supply the documentation placed this Authority into a difficult situation in making necessary inquiries as Mrs Quilligan has provided no evidence to satisfy ourselves of the family's status and identities.

This Authority cannot locate copies of the family birth certificates as Mrs Quilligan has not supplied the necessary information needed to apply for duplicate birth certificates.

Mrs Quilligan has failed to provide Philomena's national insurance number, which precluded this Authority from seeking confirmation with DWP as to whether Philomena has recourse to public funds.

Furthermore, the family have travelled around Hounslow and never held a previous local authority tenancy. Therefore I am also unable to confirm eligibility through this route.

At the initial homeless interview held on the 4th February 2010, Mrs Quilligan was asked to provide copies of her and her family's birth certificates or passport, confirmation of her and Philomena's income and national insurance for all the family over the age of 16.

Further reminder letters were sent to Mrs Quilligan, her solicitors and her advocates on the 4th February and 8th March 2010.

Mrs Quilligan did provide an extract from the Marriage Register at St Mary's Roman Catholic Church in Rathkeale, Limerick Diocese. However the extract states that the persons are Patrick Quilligan and Catherine Quilligan. It does not identify Mrs Cathleen Quilligan. I did advise Mrs Quilligan that this was not acceptable as any form of identification.

Therefore I am not satisfied that Mrs Quilligan is eligible for assistance as homeless.

Priority Need

In determining priority need, I have taken into account S189(1) of the Housing Act 1996 – Part VII and the Code of Guidance 10.2.

Section 189 (1) and the Homelessness (Priority Need for Accommodation) (England) Order 2002 provides that the following categories of applicant have a priority need for accommodation:

- 1) a pregnant woman or a person with whom she resides or might reasonably be expected to reside;

Mrs Quilligan is not pregnant. At the time of her application she advised that her daughter, Philomena Quilligan was pregnant but to date she has not provided any proof to substantiate this.

- 2) a person with whom dependent children reside or might reasonably be expected to reside;

Mrs Quilligan has not provided evidence that she has dependent children.

In an email Mr Malcolm Tully, an advocate for Mrs Quilligan, advised that Philomena gave birth mid march 2010 in Cambridge. However no birth certificate or proof of award of child benefit has been received despite request to provide this. Therefore there is no evidence to support the statement that there is a dependent child.

- 3) a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside;

I took into consideration the following sections from the Code of Guidance 2006:

10:13 It is a matter of judgement whether the applicant's circumstances make him or her vulnerable. When determining whether an applicant in any of the categories set out in paragraph 10:12 is vulnerable, the local authority should consider whether, when homeless, the applicant would be less able to fend for him/herself than an ordinary homeless person so that he or she would suffer injury or detriment, in circumstances where a less vulnerable person would be able to cope without harmful effects.

10:14 Some of the factors which may be relevant to determining whether a particular category of applicant is vulnerable are set out below. The

assessment of an applicant's ability to cope is a composite one taking into account all of the circumstances. The applicant's vulnerability must be assessed on the basis that he or she is or will become homeless, and not on his or her ability to fend for him or herself while still housed.

10:15 Old age alone is not sufficient for the applicant to be deemed vulnerable. However, it may be that as a result of old age the applicant would be less able to fend for him or herself as provided in paragraph 10:13 above. All applications from people aged over 60 needs to be considered carefully, particularly where the applicant is leaving tied accommodation. However, housing authorities should not use 60 (or any other age) as a fixed age beyond which vulnerability occurs automatically (or below which it can be ruled out); each case will need to be considered in the light of the individual circumstances.

10:16 Housing Authorities should have regard to any advice from medical professionals, social services are current providers of care and support. In cases where there is doubt as to the extent of any vulnerability authorities may also consider seeking a clinical opinion. However, the final decision on the question of vulnerability will rest with the housing authority. In considering whether such applicants are vulnerable, authorities will need to take account of all relevant factors including:

- The nature and extent of illness and/or disability and the individual's housing difficulties; and
- The relationship between the illness and/or disability and the individual's housing difficulties; and
- The relationship between the illness and/or disability and other factors such as drug/alcohol misuse, offending behaviour, challenging behaviours, age and personality disorder.

11:64 In applying the next question I considered is whether Mrs Quilligan is a person who is 'vulnerable' according to the ordinary Pereira test. This test had been narrowed in its application by reference to its strict statutory context of homelessness or threatened homelessness:

It must appear that his inability to fend for himself whilst homeless [or threatened with homeless] will result in injury or detriment to him which would not be suffered by an ordinary homeless person who was able to cope.

11.65 Obviously that test will be satisfied by a person whose circumstances are such that he or she is not able to obtain housing unaided and is thus unable to deal with homelessness in the ordinary way. There need not be actual injury or detriment. An increase in the risk of injury or other harm is itself a 'detriment'. 'Injury or detriment' can include physical injury, a deterioration of a person's mental condition, or the risk of self harm.

Mrs Quilligan advised that she has been diagnosed with a depressive disorder and Benign paroxysmal positional vertigo. She is being treated with Citalopram 20mg (1 daily) and Betahistine 16mg (1 three

times daily, when needed), and stated on her medical form that she expressed suicidal ideation.

The District Medical Advisor, Dr Keen, concluded from his assessment of all the relevant information provided that the medical issues appear generally minor only. Her depression and suicidal thoughts have not necessitated psychiatric or CMHT referral which suggests they are not severe, and he makes no housing recommendation.

In assessing the nature and extent of illness for Mrs Quilligan is taking a low dosage of Citalopram, takes Betahistine when needed and although expressed suicidal ideations her G.P. has confirmed that she feels she is low in moods and never diagnosed or treated her for suicidal ideations. Her G.P. further confirmed that the depression can be resolved but may take time and Vertigo is known to have remission and recurrences. Given the relationship between the illness and Mrs Quilligan's housing difficulties I took into consideration Mrs Quilligan's age and her ability to deal with everyday functions and the fact she is on a low dosage treatment plan, without being referred to a psychiatric or CMHT referral. Furthermore, despite Mrs Quilligan's illnesses, she has successfully claimed welfare benefits and has not shown any difficulties in applying for homelessness assistance when making her application.

For these reasons and taking into consideration the Code of Guidance, Housing Act, 1996, Part VII as amended by the Homeless Act 2002 and applying the Pereira test, I am of the belief that Mrs Quilligan would not be less able to fend for herself than an ordinary homeless person, whilst homeless or threatened with homelessness.

4) a person aged 16 or 17 who is not a 'relevant child' or a child in need to whom a local authority owes a duty under Section 20 of the Children Act 1989;

Neither Mrs Quilligan nor Philomena have provided proof that this statement applies to them.

5) a person under 21 who was (but is no longer) looked after, accommodated or fostered between the ages of 16 and 18 (except a person who is a 'relevant student');

Neither Mrs Quilligan nor Philomena have provided proof that this statement applies to them.

6) a person aged 21 or more who is vulnerable as a result of having been looked after, accommodated or fostered (except a person who is a 'relevant student');

Neither Mrs Quilligan nor Philomena have provided proof that this statement applies to them.

7) a person who is vulnerable as a result of having been a member of her Majesty's regular naval, military or air forces;

Neither Mrs Quilligan nor Philomena have provided proof that this statement applies to them.

8) a person who is vulnerable as a result of:

- a. having served a custodial sentence;
- b. having been committed for contempt of court of any other kindred offence, or;
- c. Having been remanded in custody;

Neither Mrs Quilligan nor Philomena have provided proof that this statement applies to them.

9) A person who is vulnerable as a result of ceasing to occupy accommodation because of violence from another person or threats or violence from another person which are likely to be carried out;

Neither Mrs Quilligan nor Philomena have provided proof that this statement applies to them.

10) A person who is vulnerable for any other special reason, or with whom such a person resides or might reasonably be expected to reside;

Neither Mrs Quilligan nor Philomena have provided proof that this statement applies to them.

11) A person who is homeless, or threatened with homelessness, as a result of any emergency such as flood, fire or other disaster.

Neither Mrs Quilligan nor Philomena have provided proof that this statement applies to them.

Conclusion

In taking into consideration whether inquiries are necessary, Mrs Quilligan did not indicate at her homeless application interview that she would experience difficulties in providing requested documentation. I have taken all of Mrs Quilligan's circumstances into account and taken a composite view, using our own investigations as well.

Given the normal channels of seeking confirmation to verify Mrs Quilligan and her family identities and status and priority need, I am not satisfied that she is not a person from abroad or a person who is not subject to immigration control and based on this information.

A preliminary decision was provided to Mrs Quilligan, her solicitors and advocates advising that this was the possible outcome and they were given the opportunity to provide additional information prior to the final Section 184 decision being made. This was issued on the 30th March 2010. A letter from the solicitors was received on the 30th April 2010. It states that they had been "instructed that Philomena gave birth to her baby in March 2010 but there were complications and had to remain in hospital care for a period. This has delayed obtaining details as to NI, her own and baby's birth certificate. We are

taking steps in regard to this." However to date this information remains outstanding.

The solicitor's letter also states "we enclose a copy from the benefits office confirming her receipt of Income Support as at 12th April 2009 and her NI number is on it." This letter does not confirm that Mrs Quilligan is eligible for housing assistance. It confirms that she had recourse to funding at the time the letter was issued in 2009. The department of Work and Pensions advised that they do not hold any valid form of identification for Mrs Quilligan.

DECISION

Eligible S 185

I am satisfied that the applicant is not eligible for assistance.

Code of Guidance 5.3

I have not received a copy of current British Passport or birth certificate to support that the applicant is eligible.

Homeless S 175(2)b

The applicant has a mobile structure, but she has nowhere she is permitted or entitled to both place and reside in it.

Code of Guidance 8.17

The applicant has accommodation, which consists of a mobile structure, but she has nowhere she is permitted or entitled to both place and reside in it. She is currently residing at Dale Farm which is an illegal traveller site.

In Priority Need S189 (1)(d)

I am satisfied that the applicant is not deemed vulnerable due to medical needs or reside with a person who is pregnant or has dependent children.

Code of Guidance 10.2 (ii)

The applicant is not a person deemed vulnerable due to her medical need or resides with a person who is pregnant or has dependent children.

Ms M Badger
Housing Options & Homelessness Officer
15th September 2010